

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

SCOTTY D. FULTON.)	
)	
Plaintiff,)	
vs.)	NO. CIV-13-1108-HE
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of the Social,)	
Security Administration,)	
)	
Defendant.)	

ORDER

Plaintiff Scotty D. Fulton filed this action seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying his applications for disability insurance benefits and supplemental security income benefits under Title II and Title XVI of the Social Security Act. Consistent with 28 U.S.C. § 636(b), the matter was referred to Magistrate Judge Gary M. Purcell, who recommends that the Commissioner's decision be affirmed.

Plaintiff applied for benefits on August 18, 2005, alleging he was disabled due to back and mental impairments. On May 31, 2007, Administrative Law Judge ("ALJ") Thompson conducted a hearing on the applications and issued an unfavorable decision, which the Appeals Council rejected. It remanded the case for further proceedings and ALJ Thompson held a second hearing on November 5, 2009. He again concluded plaintiff was not disabled within the meaning of the Social Security Act. The Appeals Council denied plaintiff's request for review, so the ALJ's decision became the final decision of the Commissioner, which plaintiff appealed to this court. The case was referred to Magistrate Judge Couch, who

concluded in a Report and Recommendation that ALJ Thompson had committed legal errors that warranted a reversal and remand. The court adopted the magistrate judge's Report and Recommendation, reversed the Commissioner's decision and remanded the case for further proceedings. Noting that plaintiff had filed subsequent claims for Title II and Title XVI benefits, the Appeals Council, in addition to remanding the case to an ALJ for further proceedings as directed by the district court, directed the ALJ to "associate the claim files and issue a new decision on the associated claims," and to offer plaintiff "the opportunity for a hearing, take any further action needed to complete the administrative record and issue a new decision." Administrative Record at 451 (hereinafter TR ____).

ALJ Stults conducted a supplemental hearing on October 4, 2012, at which plaintiff testified, along with his wife and mother, as well as a vocational expert. The ALJ concluded plaintiff was not disabled and, after the Appeals Council denied plaintiff's request for review, his decision became the final decision of the Commissioner.

Plaintiff again appealed, claiming the ALJ committed various errors, including failing to follow the court's prior order on remand. Magistrate Judge Purcell disagreed. He did find harmless errors in the decision. He also found it problematic in other respects, but ultimately determined that the reasoning underlying the decision and the conclusions reached were sound and supported by the record.¹


¹For example, the magistrate judge stated: "Even though ALJ Stults found that Dr. Hartley's opinion was entitled to "greater weight" and that Dr. Kendall's opinion was entitled to only "minimal weight" (TR 413-414), ALJ Stults adopted all of Dr. Kendall's opinion expressed on the MRFCA with respect to the step four determination of Plaintiff's mental RFC for work." Doc. #24, p. 12.

Plaintiff essentially raises the same objections to the Report and Recommendation that he did in his appeal. He claims the magistrate judge improperly concluded the ALJ correctly assessed plaintiff's mental and physical residual functional capacities. Plaintiff also disagrees with the magistrate judge's determination regarding the ALJ's credibility assessment and his conclusions that the ALJ satisfied Social Security Ruling 00-4p and did not err in rejecting the opinion of plaintiff's case manager at his treating mental health clinic.

Having conducted a *de novo* review, the court agrees with the Magistrate Judge Purcell's thorough analysis and adopts his Report and Recommendation. Accordingly, the Commissioner's decision is **AFFIRMED**.

IT IS SO ORDERED.

Dated this 19th day of February, 2015.



JOE HEATON
UNITED STATES DISTRICT JUDGE